

REMARKS

Claims Rejections - 35 USC §102(b)

The Office rejected claims 5, 9 and 14 under 35 U.S.C. 102(b) as being anticipated by Kazuhito (US 5,033,593). A rejection based on anticipation requires that a single reference teach every element of the claim (MPEP § 2131). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Or stated in another way, a "claim is anticipated only if each and every element as set forth in the claim is found, . . . described in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). . . .

To overcome the anticipation rejection, the Applicant needs to only demonstrate that not all elements of a prima facie case of anticipation have been met, i.e., show that the prior art reference cited by the Examiner fails to disclose every element in each of the applicants' claims. "If the examination at the initial state does not produce a prima facie case of unpatentability, then without more the applicant is entitled to grant of the patent." In re Oetiker, 977 F.2d 1443, 24 USPQ 2d 1443, 1444 (Fed. Cir. 1992).

The applicant respectfully submits that the claimed invention, as amended, is not disclosed by the cited reference. In contrast to the claimed invention, the cited reference fails to disclose that the nadir of the recessed rib is positioned such that the nadir of the recessed rib is equidistant from both the opposing wall and the nadirs of proximal recessed ribs in the opposing wall. The '593 reference discloses a corrugated wall disposed opposite another corrugated wall connected by flat walls so as to form a tube with a rectangular cross section. The corrugations are not disclosed as having a special relationship to the tubes, just that the ridges are perpendicular to the flat sides of the tube. The corrugations are not depressions from a flat plan, as claimed, but part of continuous sinusoidal plates, thus there is no wall to define the geometry. The result is that the cited references fail to provide the claimed geometry. At least for this reason, the applicant

respectfully submits that the amendment to claim 5 cures the Office's rejection and requests that the Office withdraw the rejection of claims 5, 9, and 14.

Claim Rejections – 35 USC § 103

Applicant has carefully considered the Office rejections of claim 6, 7, 10, 13, and 8 and respectfully submits that the amended claims, as supported by the arguments herein, are distinguishable from the cited reference. According to the MPEP §2143.01, "[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found in either the references themselves or in the knowledge generally available to one of ordinary skill in the art."

The Office has quoted the statute from 35 USC 103(a), which is referenced herein. The Office has rejected claim 6 as being unpatentable over the '593 reference. The Office's citation of the '593 reference alleges that it would be obvious to one skilled in the art to provide alternating orientation. The applicant respectfully submits that in contrast to the claimed invention, as claimed above, the '593 reference fails to disclose, *inter alia*:

[a] recessed groove in the second wall is provided at a position opposed to a wall surface between two adjacent recessed grooves formed in the first wall so that the recessed grooves formed in the first wall and recessed grooves formed in the second wall are disposed alternately, and a distance (a) from a lower end of a recessed groove in a first wall to a second wall is made equal to a distance (b) from the lower end of the recessed groove in the first wall to a lower end of the recessed groove in the second wall.

The applicant respectfully submits that at least for this reason, the claimed invention of claim 6, as dependant from claim 1, is therefore patentably distinct from the cited '593 reference. The applicant therefore respectfully requests that the Office withdraw its rejection of this claim.

Claims 7 and 10 through 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kazuhito in view of US Patent No. 5,382,051 to Glance. The Office cites the '051 reference as disclosing semi-arc notches, presumed by the applicant but not specifically alleged by the

Office to be ref. nos. 27, 28, 29 (“wave shaped configuration forming pockets providing ridges . . .” Col. 4, ll. 39-40) . The applicant notes that the ‘051 reference only disposes such notches on a single side of the member (Figs. 7 and 8) and such notches are not disposed in the claimed geometry described above. The applicant respectfully submits that at least for the reasons recited above claims 7, and 10-13 are patentably distinct from the cited references, either alone or in combination. The Applicant respectfully requests that the Office withdraw its rejection of these claims.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kazuhito in view of US Patent No. 3,995,901 to Filbert, Jr. et al. The applicant respectfully submits that these elements are likewise omitted from the ‘901 reference. The ‘901 reference, again discloses only “a sinuous” or corrugated elastomeric rib that is placed perpendicular from the force of impact. This reference does not disclose the relationship between ribs of opposing walls such that the distance between nadir of a first rib and a proximate opposing rib is equal to the distance between that nadir and the wall between the two proximate opposing ribs. At least for this reason, the applicant respectfully submits that the cited references, either alone or in combination fail to disclose the claimed invention. The applicant therefore respectfully requests that the Office withdraw its rejection of claim 8.

Applicant believes the above amendments and remarks to be fully responsive to the Office Action, thereby placing this application in condition for allowance. No new matter is added. Applicant requests speedy reconsideration, and further requests that Examiner contact its attorney by telephone, facsimile, or email for quickest resolution, if there are any remaining issues.

Respectfully submitted,

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